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DATE: May 30, 2003

TO: Mayor Dick Murphy

FROM: City Attorney

SUBJECT: Potential Conflict of Interest Related to Fiscal Year 2004 Funding
Recommendations for Special Promotional Programs (Item 606 on Council
Docket for June 2, 2003)

MEMORANDUM OF LAW

INTRODUCTION

You have asked our Office to determine whether a conflict of interest would be created by your participation in and voting on an upcoming Council decision involving funding for arts, culture, and economic development organizations. The question arises because three organizations that are recommended for funding as a part of that decision have given you reportable gifts in the last twelve months.

QUESTION PRESENTED

Are you disqualified from participating in an upcoming Council decision involving arts, culture, and economic development funding as a result of having received gifts in the past twelve months from the three organizations recommended for funding?

SHORT ANSWER

No. Because the gifts from the organizations are not of sufficient value to create disqualifying "financial interests" for purposes of conflict of interest analysis, you are not disqualified from participating in this decision.

BACKGROUND

II. Council Policy 000-4

Council Policy 000-4 states in pertinent part:

No elected official, officer, appointee or employee of the City of San Diego shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence or judgment or action in the performance of such duties.

Under this policy, when an official has an interest in a matter, whether that interest is financial or personal, it is within the official's own discretion to determine if that interest in a matter makes participation in a decision on that matter "incompatible with the proper discharge of his official duties." If you determine that your participation in the decision on the funding allocations in Item 606 would be inappropriate under Council Policy 000-4, you may choose to abstain from participating in the item. It should be emphasized, however, that this result is not required under the law, and is a matter for your own discretion.

CONCLUSION

You have no financial interest that would be potentially affected by decisions on the arts, culture, and economic development funding allocations in Item 606 for June 2, 2003, because none of the organizations seeking funding as a part of that decision have given you gifts of \$340 or more in the last twelve months. Therefore, your participation in the discussion and votes on Item 606 related to the funding allocations does not present a conflict of interest. If you have any further questions, please feel free to contact me.

CASEY GWINN, City Attorney

By

Lisa

A. Foster

Deputy City Attorney

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